

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BERNEST BENJAMIN,

Plaintiff,

v.

No. 14-cv-0784 JB/SMV

**JAMES JACKSON, LAWRENCE ARTIAGA,
and MICHAEL HOHMAN,¹**

Defendants.

ORDER GRANTING PLAINTIFF’S MOTION FOR EXTENSION OF TIME

THIS MATTER is before the Court on Plaintiff’s Motion for Extension of Time (“Motion”) [Doc. 50], filed July 8, 2016. Plaintiff’s Motion, which is dated July 7, 2016, requests an extension to “file/answer.” Plaintiff, who is no longer incarcerated, provides no reason for his requested extension. It is not clear from his motion whether he is asking for an extension of time to file objections to the Magistrate Judge’s Proposed Findings and Recommended Disposition (“PF&RD”) [Doc. 48], which were due on July 5, 2016, or an extension of time to respond to the Order to Show Cause [Doc. 49], which was due on July 7, 2016.

The Tenth Circuit has held “that a party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *United States v. One Parcel*, 73 F.3d at 1060. “To further advance the policies behind the Magistrate’s Act, [the Tenth Circuit], like numerous other

¹ Defendants indicate that the correct spelling is “Hohman,” rather than “Holman.” See [Doc. 19] at 1 n1.

circuits, ha[s] adopted ‘a firm waiver rule’ that ‘provides that the failure to make timely objections to the magistrate’s findings or recommendations waives appellate review of both factual and legal questions.’” *One Parcel*, 73 F.3d at 1059.

By not filing timely objections, Plaintiff has waived his right to object to the PF&RD. In the interests of justice, however, the Court will grant Plaintiff an extension of time to file both his objections to the PF&RD and his response to the Order to Show Cause. However, Plaintiff will be required to show good cause for any further requests for extension of time, and any such request must be filed *prior* to the corresponding deadline.

Plaintiff shall have until **July 28, 2016** to object to the PF&RD and to respond to the Order to Show Cause.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge